

REMARKS

In the office action of July 28, 2005, the Examiner rejected claims 66 through 68 as anticipated by Wightman et al. Applicant has amended claims 66 and 69 to require lighting means configured for selectively illuminating the candle. Wightman does not teach such lighting means.

The Examiner rejected claims 66 and 68 as anticipated by Nacouzi. Applicant has provided a declaration herewith which establishes the conception of the present invention well before the filing date of the Nacouzi patent, and therefore removes Nacouzi as a prior art reference.

Claims 36, 37, and 40 are rejected in view of Nacouzi and Barnhart. Nacouzi has been removed as a reference.

Claims 38, 39, and 71-75 are rejected over Barnhart, Nacouzi, and Lam. Nacouzi has been removed as a reference.

Claims 76 and 77 are rejected over Barnhart, Nacouzi, Lam, and Andeweg. Nacouzi has been removed as a reference.

Claims 41-43, 48-52, 54-57, and 78 are rejected over Barnhart, Nacouzi, and Andeweg. Nacouzi has been removed as a reference.

Claims 44 and 53 are rejected over Barnhart, Nacouzi, Andeweg, and Wightman. Nacouzi has been removed as a reference.

Claims 45, 47, 58-62, 64, and 65 are rejected over Nacouzi and Andeweg. Nacouzi has been removed as a reference.

Claims 46 and 63 are rejected over Nacouzi, Andeweg, and Lam. Nacouzi has been removed as a reference.

Claims 69 and 70 are rejected over Nacouzi and Andeweg. Nacouzi has been removed as a reference.

As Nacouzi has been removed as a reference, and in light of the amendment to the claims rejected over Wightman, Applicant believes that the claims are now in condition for allowance.

Applicant further submits that the combination of various pieces of the prior art to further reject the claims is contrary to the teachings of the references. Andeweg teaches the placement of a light inside of a candle to thereby illuminate the candle. The candle is a conventional wax candle. If the candle was placed on a heating surface to thereby melt the candle the light cavity would be ruined and a mess of wax and electrical components would result. Similarly, Tang teaches replacing the candle wick with electrical wires and disposing a light bulb at the top of the candle to simulate a flame. If the candle of Tang was placed on a heater, the candle would collapse or melt and create a mess of wax and wire. For both Andeweg and Tang, heating the candle on a candle heater would defeat the purpose of the invention disclosed therein. One of ordinary skill in the art would certainly appreciate that use of Andeweg or Tang in such a manner would be both unwise and potentially dangerous. Further more, it goes against the implied teaching in each reference or preserving the candle while simulating burning.

Barnhart provides an aromatic diffuser with a container of wax. One of the purposes of the invention is to provide a stable arrangement which will not easily spill melted wax if upset. (See Abstract, column 2 lines 44-47). The cup shaped heating element is designed to retain the container of wax and to help melt the wax by providing heat through the sides of the container. (See column 2 line 12 through column 3 line 7, column 3 line 41 through column 4 line 58). Thus, the shape of the heating cup is an important part of the invention, and changing the cup shape would defeat the disclosed advantages of the invention. Not only does Barnhart not suggest the modification, it teaches away from the claimed invention.

Lam discloses precisely the dangers and disadvantages of the prior art methods for heating scented wax to provide fragrance. The open flame is dangerous and not allowed in many environments. For example, most office buildings ban the use of open flames. Thus, Lam actually teaches away from Applicant's invention.

Wightman is specifically designed to maintain a liquid (such as a cup of coffee) at a heated temperature. There is no suggestion in Wightman to use the invention to heat a candle, and certainly no suggestion to make a candle having a suitable container for melting the wax and using such in combination with the warmer disclosed.

There is no suggestion or motivation found in the prior art references to combine these references. To the contrary, Andeweg, Tang, Barnhart, and Lam teach away from combination with Wightman and with each other as the combinations would destroy the advantages and teaching of the individual patents.

It is precisely Applicant's invention which combines the necessary features to provide a candle warmer capable of receiving a candle and warming the candle to provide fragrance. Claims 36, 58, and 71 claim a method of heating a candle to generate fragrance. None of the prior art references teach this method, and as discussed above, teach away from the combination of these prior art patents as such would eliminate the advantages of the individual inventions. Claim 45 claims a candle having a container which has a channel formed completely through the center of the container. No reference teaches a container having a channel formed in the center thereof. Applicant has further defined the claim to require container walls defining the channel and configured for preventing molten wax from passing therethrough. Such a container is not taught by the prior art, and there is certainly no motivation to create such a container.

Claim 48 requires a heater having a socket for providing energy to a light. Such is not shown in the prior art, and as discussed above, there is no motivation to modify the prior art into such a configuration.

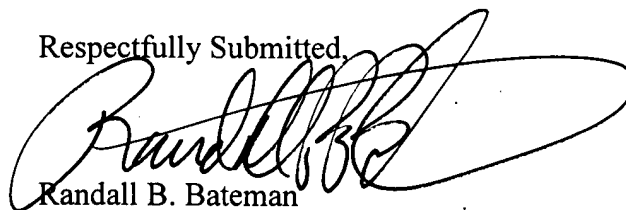
Claim 78 requires a heating device with lighting means. Wightman provides no motivation to modify the heater shown to include a lighting means as claimed. Barnhart provides no motivation to include a lighting means as claimed, and modification of Barnhart as claimed would defeat the advantages of the Barnhart invention. Tang and Andeweg do not show a lighting means as claimed, and do not provide any motivation to add such a lighting means to a heater.

Applicant believes that a telephone conference with the Examiner would be useful in discussing the prior art and in clarifying any remaining concerns. Applicant therefore has submitted a request for telephonic interview with the present amendment to discuss the amendment prior to receiving a further office action.

Applicant believes that no fee is necessary with the above amendment. The Commissioner is hereby authorized to debit any amount owing or credit any overpayment to Deposit Account No. 50-2720.

Should the Examiner have any questions or concerns regarding the preceding amendment, it is requested that she contact Applicant's counsel, Randall B. Bateman, at (801) 533-0320.

Respectfully Submitted,

A handwritten signature in black ink, appearing to read "Randall B. Bateman", with a large, sweeping loop at the end.

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